

A RESOLUTION BY CITY UTILITIES COMMITTEE

A RESOLUTION TO AUTHORIZE PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION AGENCY (EPA) AND THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) IN THE AMOUNT OF THREE HUNDRED FORTY-ONE THOUSAND AND 00/100 DOLLARS (\$341,000.00) PURSUANT TO THE FIRST AMENDED CONSENT DECREE, CIVIL ACTION FILE NO. 1:98-CV-1956-TWT; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.

Whereas, on August 1, 2005 the Georgia Environmental Protection Division (EPD) and the United States Environmental Protection Agency (EPA) made a written demand on the City for stipulated penalties concerning violations of the First Amended Consent Decree (1:98-CV-1956-TWT); and

Whereas, the Department of Watershed Management continues to make substantial progress within the separated and combined sewer systems in which the Department expects to continue seeing declines in future fines and spills; and

Whereas, under the First Amended Consent Decree the City is subject to stipulated penalties for sanitary sewer overflows (SSO's) to waters and dry land (all quarters for 2004); and

Whereas, the total amount assessed and demanded by EPA and EPD for these violations is Three Hundred Forty-One Thousand Dollars and 00/100 (\$341,000.00) as set out in Exhibit "A" hereto; and

Whereas, the Department of Watershed Management of the City does not dispute the fact that these violations did occur; and

Whereas, the payment to the EPD and EPA of this assessment by the City does not constitute a finding of adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City by its consent agree to any violation of state or federal laws or admit any liability to any third party or parties; and

Whereas, funds for this purpose are available in account number 2J01 529017 Q30001; and

Whereas, it is deemed to be in the interest of the City to accept the proposed stipulated penalties and to pay the incident assessments to them.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA AS FOLLOWS:

Section One: That the Chief Financial Officer of the City of Atlanta is authorized to issue checks in the amounts not to exceed One Hundred Seventy Thousand Five Hundred and 00/100 Dollars (\$170,500.00) payable to the **State of Georgia** and One Hundred Seventy Thousand Five Hundred and 00/100 Dollars (\$170,500.00) payable to the **Treasurer, United States of America** as stipulated penalties imposed pursuant to the First Amended Consent Decree at the discretion of the Environmental Protection Agency and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia; and

Section Two: That the Chief Financial Officer is authorized to pay interest due, if any, on the said stipulated penalties in accordance with the First Amended Consent Decree; and

Section Three: That the said payments be chargeable to Account Number 2J01 529017 Q30001.

Exhibit A

Summary of Penalty Demand

First Amended Consent Decree Violations	Amount
1st Quarter/Yr. 2004	Subtotal: \$76,500
77 unpermitted discharges to State waters	
51 sewage overflows to dry land	
2nd Quarter/Yr. 2004	Subtotal: \$77,000
77 unpermitted discharges to State waters	
55 sewage overflows to dry land	
3rd Quarter/Yr. 2004	Subtotal: \$71,500
83 unpermitted discharges to State waters	
36 sewage overflows to dry land	
4th Quarter/Yr. 2004	Subtotal: \$116,000
127 unpermitted discharges to State waters	
40 sewage overflows to dry land	
TOTAL DEMAND	\$341,000

Legislative White Paper

Committee of Purview: City Utilities

Caption

A resolution to authorize payment of Stipulated penalties imposed by the environmental protection agency (EPA) and the environmental protection division of the Department of natural resources of the state of Georgia (EPD) in the amount of three hundred forty-one thousand and 00/100 dollars (\$341,000.00) Pursuant to the first amended consent decree, civil action file no. 1:98-CV-1956-TWT; to identify the source of funding; and for other purposes.

Council Meeting Date: September 19, 2005

Legislation Title: FACD Demand

Requesting Dept.: Watershed Management

Contract Type: N/A

Source Selection: N/A

Bids/Proposals Due: N/A

Invitations Issued: N/A

Number of Bids / N/A

Proposals Received: N/A

Bidders/Proponents: N/A

Justification Statement:

The legislation authorizes the City to pay the total amount assessed and demanded by EPA and EPD for the 2004 year violations in the amount of Three Hundred Forty-One Thousand Dollars and 00/100 (\$341,000.00).

Background: On August 1, 2005 the Georgia Environmental Protection Division (EPD) and the United States Environmental Protection Agency (EPA) made a written demand on the City for stipulated penalties concerning violations of the First Amended Consent Decree for sanitary sewer overflows (SSO's) to waters and dry land occurring in 2004.

Fund Account Center: 2J01 529017 Q30001

Source of Funds: N/A

Fiscal Impact: \$341,000.00 will be paid to the Georgia Environmental Protection Division (EPD) and the United States Environmental Protection Agency (EPA) collectively for the associated penalties.

Term of Contract: N/A

Method of Cost Recovery: N/A

Approvals:

DOF:

DOL:

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